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June 22, 2015

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**Subject: Tentative Waste Discharge Requirements (WDRs) and Monitoring and Reporting Program (MRP) for the Grassland Bypass Project**

Dear Ms. Wong:

Contra Costa Water District (CCWD) appreciates the opportunity to comment on the May 2015 Tentative Waste Discharge Requirements (WDRs) and Monitoring and Reporting Program (MRP) for the Grassland Bypass Project (Project). Agricultural drainage from the Grassland Bypass Project contains high levels of selenium and salt, posing a threat to the environment and drinking water quality.

As recognized by the 2015 tentative WDRs, the Grassland Bypass Project has been implemented through a series of Use Agreements between the United States Department of the Interior, Bureau of Reclamation (Reclamation) and San Luis & Delta-Mendota Water Authority (Authority). The current Use Agreement (*Agreement for Continued Use of the San Luis Drain for the Period January 1, 2010 through December 31, 2019*, Agreement No. 10-WC-20-3975) was negotiated by a group of agricultural, urban, and environmental stakeholders, including CCWD. The 2010 Use Agreement includes a time schedule to gradually reduce agricultural drainage from the Grassland area, including the discharge of selenium, salt, boron, and molybdenum. This time schedule, with a clear end date of the Project on December 31, 2019, was based on the 2009 Final Environmental Impact Statement/Environmental Impact Report (2009 EIS/EIR) for the Grassland Bypass Project (2010-2019), which was certified by the San Luis Delta-Mendota Water Authority and relied upon the Regional Board for the 2010 Basin Plan Amendment that relaxed the selenium objectives and delayed the compliance date.

The proposed selenium load allocations in the tentative WDRs (Table 2 of the WDRs) are higher (more relaxed) than the 2015-2019 selenium load objectives in the 2010 Use Agreement (shown in Table 1). Attachment 1 shows the detailed discrepancies of the selenium load objectives among the 2015 tentative WDRs, 2014 draft WDRs and the 2010 Use Agreement.

Table 1. Discrepancies of Se load values between the 2015 tentative WDRs and 2010 Use Agreement

	Time Schedule for Compliance	Water Year Type			
		Critical	Dry/Below Normal	Above Normal	Wet
2010 Use Agreement	2018-2019	150	300	450	600
2015 tentative WDRs	No later than 12/31/2019	1075	2496	4162	4480

The selenium load objective in the WDRs should be revised to be consistent with the Basin Plan 5 µg/L selenium concentration objective. The selenium load values in Table 2 of the WDRs are not sufficient to achieve the 5 µg/L selenium objective in Mud Slough, because the objective in Mud Slough has been frequently exceeded since 2011 while the Project has discharged less selenium than the Table 2 values (See Attachment 2). Without a further reduction of the discharge load limits, the concentration objective will not be met.

Furthermore, the criterion for protecting aquatic wildlife (2 µg/L selenium) would be more suitable for Mud Slough since it is surrounded by wetlands and refuges. The selenium concentration objectives in Mud Slough should be reconsidered to be protective to wildlife, and the load values calculations should be updated to truly reflect the concentration objectives.

The tentative WDRs also include language indicating that potential discharges by the Project after 31 December 2019 could be allowed. For example, Section I Prohibitions states that, “3. The discharge of agricultural subsurface drainage water to Mud Slough (north) is prohibited after 31 December 2019 unless water quality objectives for selenium are being met”; and Section II.A Discharge Limits states that, “2. The discharge of selenium from the San Luis Drain shall not exceed the monthly loads in Table 2 after 31 December 2019”. This language misinterprets the intention of the Project. Any drainage discharge after 31 December 2019 is not covered by the 2009 Final EIS/EIR of the Project, and should be considered a different project that requires a separate CEQA/NEPA approval. CCWD requests that the tentative WDRs clarify the end date for allowable discharge, as the 2001 WDRs did<sup>1</sup>.

In addition, the tentative WDRs do not have any requirements for salt loads from the Project. Although the CV-SALTS program is on-going and is intended to solve the regional salinity issue, leaving the salt discharges unregulated before the implementation of CV-SALTS does not comply with the Basin Plan (Page IV-32.01, #2). The 2010 Use Agreement specified the salt load limits (Attachment 3), which were based on salt load allocations in Table IV-4.4 of the Basin Plan. CCWD requests that the WDRs regulate the salt discharges of the Project to be

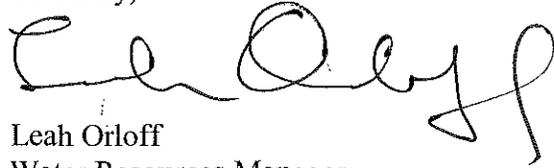
<sup>1</sup>Waste Discharge Requirements for Grassland Bypass Project (Phase II), 2001, Order No. 5-01-234, Finding 29: “The proposed Project is a short term or interim project that will operate for a maximum of eight year and three months, any proposal to discharge after the eight year and three month period would be considered a different project and will need a new environmental assessment under CEQA.”

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consistent with the 2010 Use Agreement and the Basin Plan and, if appropriate, include a re-opener clause relating to CV-SALTS.

If you have any questions, please do not hesitate to call Lucinda Shih at (925) 688-8168.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah Orloff". The signature is fluid and cursive, with a large loop for the letter 'O'.

Leah Orloff  
Water Resources Manager

LHS/YL:wec

Attachments

### Discrepancies between the Tentative Order and 2010 Use Agreement

The 2010 Use Agreement specified the annual and monthly selenium loads as well as a mandatory termination for selenium exceedance (summarized in Table A1.1). If the discharge of selenium exceeds the selenium load value in any given month or year, but not the mandatory termination value, a drainage incentive fee would be triggered. If the calculated annual discharge of selenium loads exceed the mandatory termination level, the Use Agreement (as well as the use of the San Luis Drain for drainage discharge) shall be terminated unless the exceedance was caused by unforeseeable and uncontrollable events.

Table A1.1. 2010 Use Agreement Selenium Load Limits and Mandatory Termination for 2015-2019 (pounds of Se, summarized from 2010 Use Agreement, Appendix C and Appendix K)

		Critical	Dry/Below Normal	Above Normal	Wet
2010 Use Agreement Se Load Values	2015	844	1947	3234	3510
	2016	613	1398	2036	2540
	2017	381	849	1378	1570
	2018-2019	150	300	450	600
2010 Use Agreement Mandatory Termination	2015	1075	2496	4162	4480
	2016	844	1947	3234	3510
	2017	612	1398	2306	2540
	2018-2019	300	600	900	1200

The May 2014 draft WDRs ordered that the discharge of selenium from the San Luis Drain shall not exceed the annual loads in Table A1.2, which is consistent with the mandatory termination values in 2010 Use Agreement.

Table A1.2. 2014 Draft WDRs Selenium Load Limits for 2019 (pounds of Se, summarized from 2010 draft WDRs, Section II.A.3.)

		Critical	Dry/Below Normal	Above Normal	Wet
2014 draft WDRs	2015	1075	2496	4162	4480
	2016	844	1947	3234	3510
	2017	612	1398	2306	2540
	2018-2019	300	600	900	1200

Attachment 1

The 2015 tentative WDRs ordered that the discharge of selenium from the San Luis Drain shall not exceed the monthly loads in Table A1.3 after 31 December 2019.

Table A1.3. 2015 Tentative WDRs Selenium Load Allocations for the Grassland Drainage Area (pounds of Se, from 2015 tentative WDRs, Table 2)

Month	Discharge Limits which apply no later than 31 December 2019			
	Critical	Dry/Below Normal	Above Normal	Wet
October	55	233	260	328
November	55	233	260	328
December	152	319	398	211
January	151	319	398	211
February	93	185	472	488
March	92	184	472	488
April	101	193	490	506
May	105	197	497	512
June	69	130	212	354
July	70	131	214	356
August	75	137	225	366
September	57	235	264	332
Annual Load	1075	2496	4162	4480

### Historical Selenium Concentration at Mud Slough

Figure A2.1 shows the selenium concentration in Mud Slough from 2007 to 2014. The federal selenium standard (5 µg/L) has been frequently violated even after the Grassland Bypass Project was implemented to meet the monthly selenium loads specified in Table 2 of 2015 tentative WDRs since 2011.

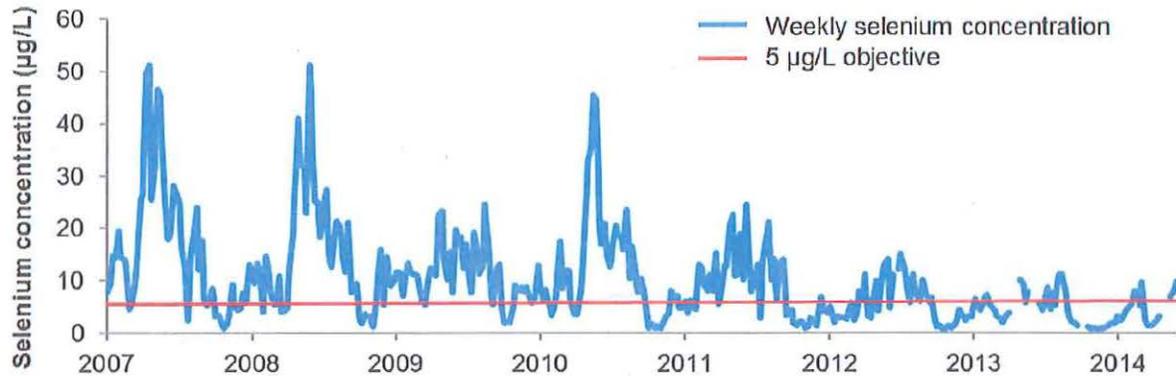


Figure A2.1. Selenium Concentration in Mud Slough below San Luis Drain 2007 to 2014 (from 2015 tentative WDRs Appendix A Figure 9)

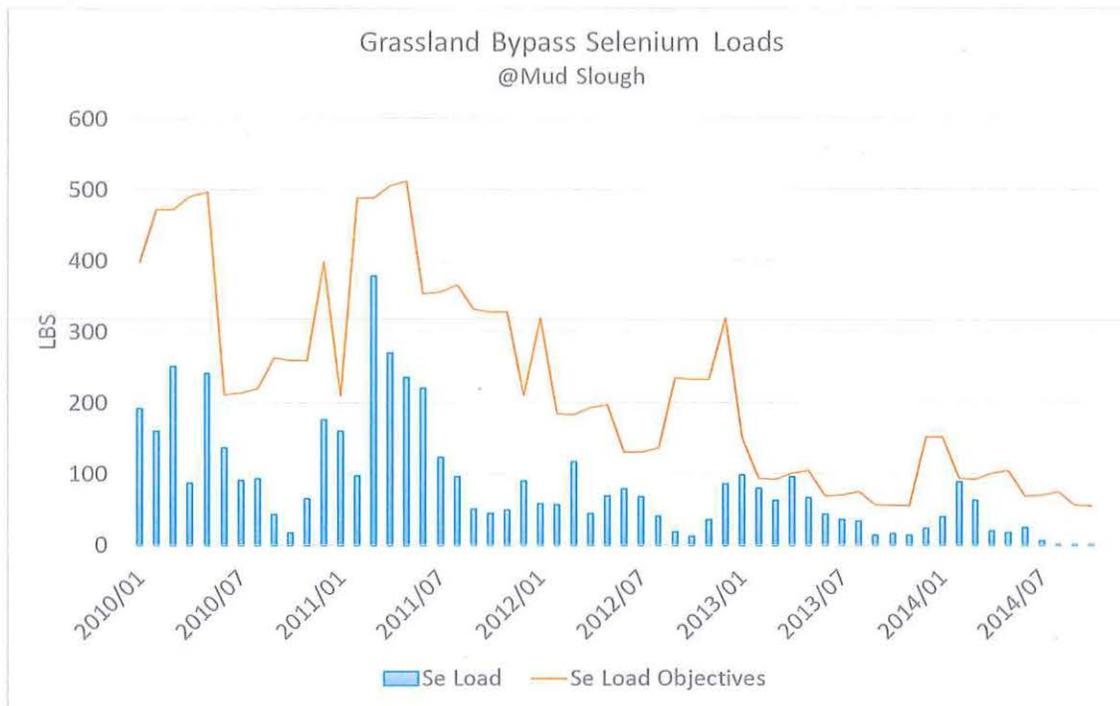


Figure A2.2. Selenium Loads from Grassland Bypass Project to Mud Slough 2010 to 2014 (data from <http://www.sfei.org/gbp/reports>)

**Salt Load Limits in 2010 Use Agreement**Table A3.1. Use Agreement Salt Load Limits for 2019 (tons of salt, summarized from 2010 Use Agreement, Appendix E)

Month	Effluent limits			
	Critical	Dry/Below Normal	Above Normal	Wet
January	4,283	7,282	12,141	12,396
February	6,779	11,524	19,215	19,618
March	8,031	13,653	22,764	23,241
April	5,910	10,047	16,753	17,104
May	5,792	9,847	16,418	16,762
June	5,991	10,185	16,983	17,339
July	6,055	10,293	17,162	17,521
August	5,373	9,134	15,230	15,549
September	2,838	4,825	8,045	8,214
October	2,180	3,706	6,178	6,308
November	2,265	3,851	6,421	6,555
December	2,502	4,253	7,092	7,240
Annual	13,000	23,700	35,600	47,400

The salt load limits are not included in the tentative WDRs.